

## Message Text

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ACTION EB-07

INFO OCT-01 NEA-10 ISO-00 SP-02 AID-05 NSC-05 CIEP-01

TRSE-00 SS-15 STR-04 OMB-01 CEA-01 L-03 IO-11 CIAE-00

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EO 11652: N/A

TAGS: EINV, EFIN, CE

SUBJ: SRI LANKA FOREIGN INVESTMENT LAW - DELAYED BUT ENACTMENT

STILL PROBABLE

REF: COLOMBO 103

1. SUMMARY: DRAFT GOVT OF SRI LANKA (GSL)  
FOREIGN INVESTMENT AUTHORITY LAW (FIAL) HAS BEEN  
PRESENTED AND IS BEING REVIEWED IN DETAIL BY CABINET BUT  
NOT YET TABLED BEFORE NATIONAL ASSEMBLY. DELAY PROBABLY  
DUE PRIMARILY TO PRIME MINISTER'S RECENT FAR EASTERN TOUR AND TO  
NECESSITY FOR GSL TO PREPARE CAREFULLY POLITICAL SCENARIO  
FOR RAPID PASSAGE AND POPULAR ACCEPTANCE. MAIN PROVISIONS OF  
DRAFT, (COPY BEING POUCHED), HAVE BEEN SUMMARIZED IN  
PRESS ACCOMPANIED BY POSITIVE COMMENT AND EDITORIALS. WE  
NOW UNDERSTAND GSL HOPES TO TABLE LAW IN MARCH. WE BELIEVE  
FINANCE MINISTER AND FIAL SUPPORTERS IN GSL NOW FACING  
FACT THAT PASSAGE AND IMPLEMENTATION OF LAW WILL BE  
POLITICALLY DIFFICULT WHILE ACTUAL ATTRACTION AND  
STARTING UP OF SIGNIFICANT FOREIGN INVESTMENT WILL  
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TAKE MUCH LONGER THAN THEY HAD THOUGHT. END SUMMARY.

2. SINCE REFTTEL SENT JAN 9, WIDELY DISCUSSED AND DEBATED DRAFT FIAL WAS PRESENTED TO CABINET WEEK OF JAN 12 BUT HAS NOT BEEN TABLED BEFORE NATIONAL ASSEMBLY. REASONS FOR DELAY NOT CLEAR BUT PRIME MINISTER'S JAN 14-28 TRIP MAY HAVE PREVENTED FINAL CABINET APPROVAL. IN ADDITION TOKEN BUT POLITICALLY AWKWARD OPPOSITION OF COMMUNIST PARTY MOSCOW (CP/M) AS MEMBER OF UNITED FRONT COALITION AND REAL OPPOSITION OF TROTSKYITE MARXIST LSSP, NOW IN OPPOSITION; CERTAIN TRADE UNIONS; AND OTHER LEFTIST GROUPS MAY PRESENT LARGER PROBLEM THAN GSL HAD ANTICIPATED. FEB 9 CEYLON DAILY NEWS ANNOUNCED "HIGHEST LEVEL TALKS" ON FIAL BETWEEN SLFP AND CP, PRESUMABLY INVOLVING PM AND CP/M LEADER, HOUSING MINISTER PIETER KEUNEMAN. OTHER DISTRACTING POLITICAL EVENTS MAY BE FACTORS SUCH AS NO CONFIDENCE MOTION AGAINST FINANCE MINISTER BANDARANAIKE RECENTLY INTRODUCED BY UNP OPPOSITION (COLOMBO 466). (REASON IS ALLEGED PERSONAL CORRUPTION, NOT FIAL.) THUS GSL PROBABLY FACING PROSPECT THAT POLITICAL GROUND NEEDS FURTHER PREPARATION TO GAIN BEST PARLIAMENTARY AND POPULAR ACCEPTANCE.

3. DURING JAN, GSL CONTROLLED ENGLISH LANGUAGE PAPERS HAVE CARRIED EXTENSIVE DESCRIPTION OF DRAFT LAW PROVISIONS INCLUDING TEXTUAL EXTRACTS ACCOMPANIED BY COMMENTS AND EDITORIALS POINTING OUT POSITIVE BENEFITS OF FOREIGN CAPITAL AND TECHNOLOGY TO BE GAINED BY LAW AND ESTABLISHMENT OF CENTRALIZED FOREIGN INVESTMENT AUTHORITY. PRESS HAS ALSO STRESSED THAT GSL WILL COMPLETELY CONTROL FOREIGN INVESTORS AND THAT NO NATIONAL ECONOMIC SOVEREIGNTY WILL BE SACRIFICED. ONE ARTICLE MENTIONS THAT EXCEPT FOR PARLIAMENTARY APPROVAL PROVISION, DRAFT LAW DOES NOT DIFFER IN ANY SUBSTANTIAL DETAIL FROM JUNE 1972 GSL WHITE PAPER ON FOREIGN INVESTMENT POLICY, WHICH WAS PUBLISHED WHEN LSSP WAS MEMBER OF UNITED FRONT COALITION. CLEARLY ANTICIPATING POLITICAL ARGUMENTS OF FIAL OPPONENTS, PRESS HAS STRESSED PROVISION FOR PARLIAMENTARY APPROVAL OF EACH INVESTMENT AND HAS POINTED OUT LIMITED OFFICIAL USE

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INCREASING WESTERN FOREIGN INVESTMENT IN OTHER SOCIALIST COUNTRIES, ON LATTER POINT, JAN 24 CEYLON DAILY NEWS EDITORIAL SAID, "IT IS NOT SUFFICIENTLY KNOWN THAT SEVERAL SOCIALIST COUNTRIES, ESPECIALLY IN EASTERN EUROPE, HAVE BEEN ABLE TO ATTRACT BIG AND SMALL COMPANIES FROM CAPITALIST COUNTRIES TO SET UP FACTORIES.... HOPEFUL DETENTE BETWEEN CAPITALIST AND SOCIALIST COUNTRIES HAS BEEN ENHANCED BY ECONOMIC COOPERATION POSSIBLE IN THIS

WAY." AS WE HAVE POINTED OUT BEFORE, WE BELIEVE THIS IS KEY ARGUMENT IN GSL'S OVERALL EFFORT TO ENCOURAGE DOMESTIC PRIVATE SECTOR AND TO ATTRACT FOREIGN INVESTMENT.

4. CONCERNING FIAL ACUAL PROVISIONS, WE HAVE OBTAINED INFORMALLY COPY OF DRAFT (BEING POUCHED) WHICH WE UNDERSTAND ON GOOD AUTHORITY REPRESENTS CABINET CONSENSUS. HERE ARE MAIN POINTS IN SUMMARY

A. FOREIGN INVESTMENT AUTHORITY IS TO BE LEGAL CORPORATE BODY AND WILL CONSIST OF SECRETARIES OF MINISTRIES OF PLANNING (CHAIRMAN), FINANCE, JUSTICE FOREIGN AFFAIRS, SAME OFFICERS OF FIVE LINE ECONOMIC MINISTRIES, AND CENTRAL BANK GOVERNOR. AUTHORITY IS TO REVIEW AND ACT ON INVESTMENT APPLICATIONS WITHIN TWO MONTHS.

B) FOR PARLIAMENTARY REVIEW AND APPROVAL, NATIONAL STATE ASSEMBLY FOREIGN INVESTMENT COMMITTEE WILL CONSIST OF PRIME MINISTER, OPPOSITION LEADER AND FIVE MEMBERS. FOLLOWING AUTHORITY AND CABINET APPROVAL ASSEMBLY COMMITTEE IS TO ACT ON PROPOSALS WITHIN TWO WEEKS FOLLOWED BY WHOLE ASSEMBLY IN TWO WEEKS I.E. FAILURE TO ACT WITHIN TWO WEEKS CONSTITUTES APPROVAL. (THUS, THEORETICALLY, GSL FINAL ACTION SHOULD TAKE THREE TO FOUR MONTHS).

C) FOR "JOINT ENTERPRISES" (MORE THAN 51 PERCENT DOMESTIC EQUITY AND CONTROL) AND "FOREIGN ENTERPRISES" (MORE THAN 51 PERCENT FOREIGN), ANY FOREIGN NATIONAL CAN APPLY TO INVEST IN "ANY PROJECT FOR FIELD OF ACTIVITY." PREFERENCE, HOWEVER, GOES TO PROJECTS INVOLVING EXPORT PRODUCTION, LABOR INTENSITY, INDIGENOUS RAW MATERIALS, LIMITED OFFICIAL USE

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IMPORT SUBSTITUTION, AND SERVICES TO FOREIGN USERS (TOURISTS).

D) "FOREIGN ENTERPRISES" ARE TO CONVERT "GRADUALLY AND PROGRESSIVELY" TO "JOINT ENTERPRISES" AFTER TEN YEARS IF APPLICATIONS MADE BEFORE OCT 1, 1976. (DELAY IN ENACTMENT AND PROBABLY REALIZATION THAT THIS DEADLINE UNREALISTIC SHOULD CAUSE IT TO BE MOVED AHEAD.) IMPLICATION IS THAT APPLICATIONS MADE AFTER DEADLINE WILL HAVE TO CONVERT IN SHORTER PERIOD.

5. OTHER PROVISIONS COVER REMITTANCES OF EARNINGS AND CAPITAL, SECURITY OF INVESTMENT (EXPROPRIATION ONLY IN "INTERESTS OF NATIONAL DEFENCE OR SECURITY"), ARBITRATION OF DISPUTES, COMPENSATION, AND EXPATRIATE

PERSONNEL. DRAFT DOES NOT MENTION O SPELL OUT ANY INCENTIVES TO INVESTORS, BUT PRESUMABLY TAX HOLIDAY AND OTHER INDUCEMENTS GIVEN IN WHITE PAPER WOULD REMAIN IN EFFECT.

6. COMMENT: AFTER INITIAL ENTHUSIASM FOLLOWING FINANCE MINISTER'S PROPOSAL OF FIAL AND POSITIVE FOREIGN INVESTMENT POLICY IN NOV 75 BUDGET SPEECH, WE BELIEVE HE AND SUPPORTERS OF POLICY IN GSL NOW FACE POLITICAL AND PRACTICAL DIFFICULTIES OF ACHIEVING RAPID RESULTS. LEFTIST OPPOSITION SEES FIAL AS KEY ISSUE. IF PASSED, IT WOULD REPRESENT INSTITUTIONALIZATION OF GSL MOVEMENT TOWARD CENTRIST ECONOMIC POLICY SINCE SEPT 75 EXCLUSION OF LSSP FROM COALITION. ADDED DIFFICULTY IS CONFLICTING IMPRESSION GIVEN BY CONTINUING EFFORT TO COMPLETE TEA INDUSTRY NATIONALIZATION(SEE SEPTELS). ALTHOUGH WE BELIEVE NATIONALIZATION SHOULD BE SEEN AS SEPARATE GSL POLICY FROM EFFORT TO ATTRACT INVESTMENT, ESPECIALLY IN NON-TRADITIONAL EXPORT SECTOR, SERIOUS FOREIGN PUBLICATIONS SUCH AS "ECONOMIST" AND "FAR EASTERN ECONOMIC REVIEW" CONTINUE TO STRESS BASIC ORIENTATION OF GSL TOWARD STRONG STATE CONTROL OF ECONOMY. HOWEVER, GIVEN GSL'S AND ESPECIALLY FINANCE MINISTER'S STRONG COMMITMENT TO FIAL AND ASSUMING CONTINUED PREVAILING POLITICAL STRENGTH OF PRIME MINISTER'S PARTY, FIAL SHOULD BE PASSED BY MARCH-APRIL AND GSL LIMITED OFFICIAL USE

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INVESTMENT POLICY COULD BEGIN ACTIVE IMPLEMENTATION SHORTLY THEREAFTER.  
VAN HOLLEN

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## Message Attributes

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